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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,077	04/24/2001	Patrick Michael McCaffrey	ROC920010057US1-IBM 204	2562
7590	12/21/2005		EXAMINER	OJINI, EZIAMARA ANTHONY
Robert H. Berdo, Jr. RABIN & CHAMPAGNE, P.C. Suite 500 1101 14th Street, N.W. Washington, DC 20005			ART UNIT	PAPER NUMBER
			3723	
				DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TWT

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/840,077	MCCAFFREY ET AL.	
	Examiner Anthony Ojini	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 06 September 2005.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1,4-9,21 and 23-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,4-9,21 and 23-28 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

The supplemental Appeal Brief filed 09/6/05 is acknowledged. Applicant's cancellation of claims 10-20 in Paper No. 11 and cancellation of claims 2, 3, 22, 29 filed June 22, 2004 are acknowledged.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-9, 21, 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by **Foster et al.** (5,073,181).

**With respect to claims 1, 21, Foster et al.** disclose a plurality of glass plates (10), stacked upon each other (see fig. 2), and a powder (12) disposed between each glass for protection measure, packaging, shipping and storage (col. 1, lines 10-20 & fig. 2).

**Foster et al.** also disclose the first glass plate is spaced apart from the second glass plate by powder only.

**With respect to claim 9, Foster et al.** disclose a plurality of glass plates (10), stacked upon each other (see fig. 2).

**With respect to claim 23, Foster et al.** disclose a powder that spaces the first glass plate and from the second glass plate (see fig.2).

**With respect to claims 4-7 and 24-27, Foster et al.** disclose in column 1, line 17, column 4, line 5, a mineral powder comprising an inorganic material that is selected

from various salts (that inherently include the group consisting of calcium carbonate, magnesium carbonate).

**With respect to claims 8, 28,** Foster et al. disclose in column 4, lines 10-13, wherein the powder has about one micron in particle size (that inherently include a size of about 200 mesh).

***Response to Amendment***

Applicant's arguments with respect to claims 1,8,9,21,28 have been considered but are moot in view of the new ground(s) of rejection.

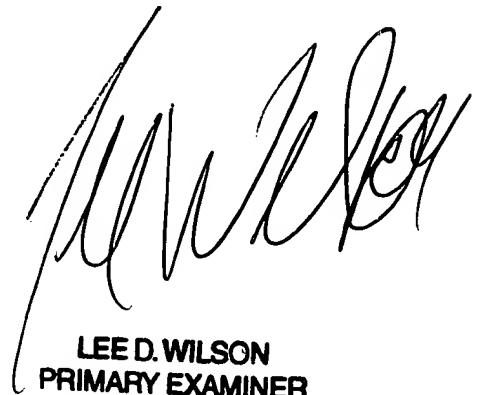
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Ojini whose telephone number is 571 272 4492. The examiner can normally be reached on 7 to 4 Tuesday-Friday with every other Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AO  
12/12/05



LEE D. WILSON  
PRIMARY EXAMINER